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EXAMINER

ART UNIT

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Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/748,174	Applicant(s) TROSMAN ET AL.	
	Examiner JOHANNES MONDT	Art Unit 3663	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 17 February 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☒ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/JOHANNES MONDT/
Primary Examiner, Art Unit 3663

Continuation of 10. Other (including any explanation in support of the above items):

Ad (4) The summary of claimed subject matter contained in the brief is deficient. 37 CFR 41.37(c)(1)(v) requires the summary of claimed subject matter to include: (1) a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters and (2) for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(A) The summary applied entire sets of paragraphs to map whole paragraphs of claim language without explaining where certain limitations are found, and in fact, some of them are not found in the overall reference to said sets of paragraphed texts at all: for instance the "generally square, hollow tube" of claim 24 is not comprehensively found in the referenced text of the specification (see detailed explanation under claim 24 below); as another example, the limitation "circular-shaped", as recited in line 2 of claim 28, is not disclosed in the text provided as reference. It is appellants' responsibility to provide a "concise explanation", as stated in 37 CFR 41.37(c) (1)(v), an albeit concise, the summary falls short of providing adequate explanation. To amplify:

(A.24) On independent claim 24: The brief is deficient because the only "tube" disclosed as being hollow and configured as sides of the bundles is the channel 12, which is disclosed as being included in the fuel bundle (page 4, line 20). Although the inclusion of non-fuel material such as a generally square, hollow tube is unusual language to describe the fuel bundle 10 and its lateral containment structure in the form of the channel 12, the meaning is clear, while appellants' interpretation is not possible, because the sides of the fuel bundle are neither hollow nor generally square. The channel is disclosed as hollow: see original claim 8, line 2, and Figures 1-3. The disclosure of "rectangular cross-section" of the channel (see original claim 10), considering the disclosure of a square matrix of fuel rods within said channel (see Figures 2 and 3) justifies the conclusion that the original specification discloses a generally square, hollow channel. This channel abuts and defines the boundary of the fuel bundle 10, and hence the latter is generally square as well.

(A.28) On independent claim 28: the brief is deficient for the overall reasons indicated above, and in particular fails to refer to a textual disclosure of the limitation "circular-shaped" (line 2).

(A.31) On independent claim 31: the brief is deficient for the overall reasons indicated above, and in particular fails to refer to a textual disclosure of the limitation "generally square, hollow tube".

It is applicants' responsibility to remedy all deficiencies as indicated above under paragraph (A) supra.

Ad (9): The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Prior Appeal, 10/748,175 (examiner R. Palabrica, examiner affirmed by the Board on 3/31/08). Appellants should provide full information on all related appeals and interferences.

Note also, that under 37 CFR 41.37 (x), Related Appeals and Interferences, copies of all decision by the Court or the Board should be provided in the Appeal.